

Railroad Retirement Board

§ 219.31

Department, or a certified copy of the public record of death in a foreign country.

(b) *Other evidence of death.* If the preferred evidence of death cannot be obtained, the individual who must furnish evidence of death will be asked to explain the reason therefor and to submit other convincing evidence, such as sworn statements of at least two persons who have personal knowledge of the death. These persons must be able to swear to the date, time, place, and cause of death.

(Approved by the Office of Management and Budget under control number 3220-0077)

§ 219.24 Evidence of presumed death.

When a person cannot be proven dead but evidence of death is needed, the Board may presume he or she died at a certain time if the Board receives the following evidence:

(a) A certified copy of, or extract from, an official report or finding by an agency or department of the United States that a missing person is presumed to be dead as stated in Federal law (5 U.S.C. 5565). Unless other evidence is submitted showing an actual date of death, the Board will use the date on which the person was reported missing as the date of death.

(b) Signed statements by those in a position to know that facts and other records which show that the person has been absent from his or her residence for no apparent reason and has not been heard from for at least 7 years. If there is no evidence available that that person continued in life after the date of disappearance, the Board will use as the date of death the date the person disappeared.

(c) When a person has been missing for less than 7 years but may be presumed dead due to drowning or common disaster (fire, accident, etc.), signed statements from the applicant and individuals who know the circumstances surrounding the occurrence leading to the person's disappearance. The best evidence is statements from individuals who witnessed the occurrence or saw the missing person at the scene of the occurrence shortly before it happened.

Subpart C—Evidence of Relationship

§ 219.30 When evidence of marriage is required.

(a) *When an application is filed for benefits.* Documentary evidence of marriage is required when an individual files for a monthly annuity, lump-sum death payment, residual lump sum, or Medicare coverage, as the wife, husband, widow, widower, divorced spouse or surviving divorced spouse, or step-parent of the employee. A claimant may also be required to submit evidence of another person's marriage when that person's marriage is necessary to determine the applicant's entitlement to benefits under the Railroad Retirement Act.

(b) *State law.* In deciding whether the marriage to the employee is valid or not, in a case where the employee is living, the Board will follow the law of the state where the employee had a permanent home when the applicant filed an application; in a case where the employee is dead, the Board will follow the law of the state where the employee had a permanent home when he or she died.

(c) *Types of evidence.* What evidence will be required depends on whether the employee's marriage was a ceremonial marriage, a common-law marriage, or a marriage that can be deemed to be valid.

§ 219.31 Evidence of a valid ceremonial marriage.

(a) *Preferred evidence.* Preferred evidence of a ceremonial marriage is—

(1) A copy of the public record of the marriage, certified by the custodian of the record or by a Board employee;

(2) A copy of a church record of the marriage certified by the custodian of the record or by a Board employee; or

(3) The original certificate of marriage.

(b) *Other evidence of a ceremonial marriage.* If preferred evidence of a ceremonial marriage cannot be obtained, the applicant must state the reason therefor in writing and submit either—

(1) A sworn statement of the clergyman or official who performed the marriage ceremony; or